

R E M A R K S

A. INTRODUCTION

Claims 45-67 were pending and rejected.

Upon entry of this Amendment:

- Claims 48, 52-65, and 68-75 will be pending
- Claims 48, 52, 53, 56, 57, and 60 will be amended
- Claims 68-75 will be added
- Claims 45-47, 66, and 67 will be cancelled without prejudice
- Claims 48, 52, 73, 74, and 75 will be the only independent claims

B. AMENDMENT TO THE SPECIFICATION

The specification has been amended to correct minor and obvious typographical errors in the application, to make some minor stylistic changes in the priority and related application information, and to identify eight related applications: U.S. Patent Application Nos. 11/424,155, 11/424,162, 11/424,166, 11/531,735, 11/531,741, 11/531,744, 11/531,749 and 11/531,754. No new matter has been added.

C. SECTION 101 REJECTION

Claims 45, 46, 48-64, 66 and 67 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. We respectfully traverse the Examiner's Section 101 rejection.

Claims 45, 46, 49-51, 66, and 67 have been cancelled without prejudice.

Independent Claim 48 has been amended and now recites *outputting an indication of the lottery number combination....* For at least this reason, Claim 48 recites a useful, concrete, and tangible result.

Claims 53-64 depend from independent Claim 52. Independent Claim 52 has been amended to recite a feature of *transmitting an indication of the determined set of symbols to the lottery terminal.* For at least this reason, Claims 52-65 recite useful, concrete, and tangible results.

D. SECTION 103(A) REJECTIONS

Claims 45-67 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Scanlon (U.S. Patent No. 4,922,522), and further in view of Cuban Lottery (comprising a photocopy of the front and back of several entries for a drawing to

be held in the Republic of Cuba on August 1, 1959). We respectfully traverse the Examiner's Section 103(a) rejection.

Claims 45, 46, 49-51, 66, and 67 have been cancelled without prejudice.

1. Independent Claim 52

The Examiner asserts that Scanlon does not teach "the limitation of the number of duplicate tickets."

Independent Claim 52 recites features of:

receiving, from the lottery terminal, an indication of a request by a player that a set of symbols is to be associated with no more than a predetermined number of occurrences lottery tickets with respect to the drawing

and

in response to receiving the indication from the lottery terminal, determining the set of symbols

The Examiner does not squarely address either of these two features in the Office Action. First, the Examiner does not address the explicit subject matter of receiving from a lottery terminal an indication of a request by a player that a set of symbols is to be associated with no more than a predetermined number of occurrences (or lottery tickets, as now recited) with respect to a drawing. The Examiner asserts that Scanlon teaches a customer's "ability to arrange a purchase, select the numbers and the quantity of times to play (occurrences)," but in Scanlon the "quantity of times to play" is with respect to how many different drawings the player wishes to be entered in. This has nothing to do with, and does not remotely suggest, a player specifically requesting that a particular set of symbols be limited to a predetermined number of lottery tickets for a particular drawing. Nothing in Scanlon suggests a player actually making a request that any set of symbols be limited to only a particular number of tickets for a particular drawing.

Nor do the photocopies of the Cuban Lottery tickets remotely suggest any such request by the player. To the contrary, the Cuban Lottery tickets indicate that no player in that lottery had any control over how many tickets were associated with a given set of numbers. The Examiner even states that there were "a total 100 of tickets per number selection." Accordingly, if, as the Examiner states, the lottery authority dictated how many tickets were associated with each set of numbers, there is no suggestion on the Cuban Lottery tickets that any player could make any type of request related to how many occurrences could be associated with any particular set of symbols, much less that a player could request

specifically that a particular set of symbols be associated with no more than a predetermined number of lottery tickets. Regardless of the number of tickets a player wanted to purchase, there appears to be, based on the Examiner's findings, nothing the player could do to request or otherwise influence the number of lottery tickets associated with a given "number selection."

For at least these reasons, the evidence relied upon cannot support the Examiner's assertion that the subject matter of the above-cited features of Claim 52 was known at the time of invention.

Further, if the Cuban Lottery ticket system was as restrictive as the Examiner indicates in the Office Action, that evidence of record teaches away from the desirability of allowing a player the ability to request specifically that a set of symbols be limited to a particular number of lottery tickets for a particular lottery drawing.

The Office Action states that the evidence of record supports a finding that it would have been desirable to provide for all the features of independent Claim 52 "to limit the number of duplicate tickets." However, as discussed above, the Cuban Lottery tickets teaches imposing a limit on the number of duplicate tickets on all players, which is the opposite of allowing (or suggesting the desirability of) a player to request that a set of symbols be associated with no more than a predetermined number of lottery tickets for a given lottery drawing. Accordingly, even if the Cuban Lottery tickets support the asserted motivation, that motivation would not actually suggest the desirability of all the specific features of independent Claim 52 cited above.

Second, nothing in either Scanlon nor Cuban Lottery remotely suggests *in response to receiving the indication from the lottery terminal, determining the set of symbols*. As noted above, nothing in Scanlon or Cuban Lottery, alone or in combination, teaches or suggests any such request of a player, and thus the evidence relied upon cannot suggest determining a set of symbols in response to such a request.

For at least these reasons, the Office Action fails to set forth a *prima facie* case of obviousness of independent Claim 52 (or any of its dependent claims). Applicants respectfully request the Examiner reconsider and withdraw the Section 103(a) rejection of Claims 52-65.

2. Independent Claim 48

Independent Claim 48 has been amended to recite generally a step of determining whether a request by a player that a lottery number combination be exclusively associated with only a single lottery ticket has been made. If the

request was not received, then the lottery number combination is determined such that it is possible the lottery number combination could be associated with more than one lottery ticket for the lottery drawing (e.g., as in a conventional ticket purchase in which potentially, any number of players could purchase tickets with the same lottery number combination).

If, however, the request has been made, the lottery number combination is determined such that it is exclusively associated with only a single lottery ticket, and that lottery number combination is also prevented from being associated with at least one additional lottery ticket for the lottery drawing.

For at least the reasons explained above with respect to independent Claim 52, nothing in Scanlon or the Cuban Lottery tickets, alone or in combination, teaches or suggests a request by a player that a lottery number combination be exclusively associated with only a single lottery ticket for the lottery drawing. Neither system suggests any such flexibility in allowing a player the flexibility in being able to choose to make such a request to limit a combination to a single lottery ticket. As discussed above, the system indicated by the Cuban Lottery tickets seemed to always issue exactly 100 tickets for each possible number, and thus cannot suggest associating a lottery number combination with only a single ticket, much less a request by a player for such exclusivity. Scanlon teaches automatically preventing the sale of duplicate tickets, and thus also does not suggest even remotely the desirability of a lottery system allowing a player to choose whether or not to have a lottery number combination associated with only a single lottery ticket.

For at least these reasons, Applicants respectfully request the Examiner reconsider and withdraw the Section 103(a) rejection of Claim 48.

E. ADDITIONAL COMMENTS

Our silence with respect to the Examiner's other various assertions not explicitly addressed in this paper, including assertions of what the cited reference(s) teach or suggest, the Examiner's interpretation of claimed subject matter or the Specification, or the propriety of any asserted combination(s) of teachings, is not to be understood as agreement with the Examiner. As the Examiner has not established an unrefutable *prima facie* case for rejecting any of the claims as pending, for at least the reasons stated in this paper, we need not address all of the Examiner's assertions at this time. Also, the absence of arguments for patentability other than those presented in this paper should not be construed as either a disclaimer of such arguments or as an indication that such arguments are not believed to be meritorious.

F. NEWLY-ADDED CLAIMS 68-73 ARE PATENTABLE OVER THE CITED REFERENCES

Newly-added Claims 68-73 are patentable over Scanlon and the Cuban Lottery tickets for at least the reasons presented herein.

Each of Claims 68-72 depends from Claim 52. Independent Claims 73 and 74 are directed to a computer readable medium and an apparatus, respectively, for providing the functionality recited in Claim 52. New Claims 68-74 are believed to be allowable for at least the reasons stated above with respect to Claim 52.

New independent Claim 75 is believed to contain allowable subject matter for at least the reason that neither Scanlon nor the Cuban Lottery tickets, alone or in combination, teaches or suggests the recited features of:

receiving, from the lottery terminal, an indication of a request by a player that a set of symbols is to be associated with no more than a definite number of randomly determined occurrences with respect to the drawing;

in response to receiving the indication from the lottery terminal, randomly determining the set of symbols, where the randomly determined set of symbols may otherwise be associated with an indefinite number of randomly determined occurrences greater than the definite number of randomly determined occurrences were it not for receiving the indication of the request from the player that the set of symbols is to be associated with no more than the definite number of randomly determined occurrences with respect to the drawing;

storing an indication that the randomly determined set of symbols is to be associated with no more than the definite number of randomly determined occurrences with respect to the drawing;

preventing subsequent random determination of the set of symbols with respect to at least a second quick pick lottery ticket for the drawing

For at least the reasons stated herein, we respectfully submit that new Claims 68-75 contain allowable subject matter.

G. PETITION FOR EXTENSION OF TIME TO RESPOND & AUTHORIZATION TO CHARGE APPROPRIATE FEES

We understand that a one-month extension of time to respond to the Office Action is necessary.

Please grant a petition for any extension of time required to make this Response timely. Please also charge any other appropriate fees set forth in 37 C.F.R. §§ 1.16 – 1.18 for this paper and for any accompanying papers to:

Charge: \$120.00

Deposit Account: 50-0271

Order No.: 00-019-C1

Please credit any overpayment to the same account.

H. CONCLUSION

It is submitted that all of the claims are in condition for allowance. The Examiner's consideration is respectfully requested.

If the Examiner has any questions regarding this paper or the present application, the Examiner is cordially requested to contact Michael Downs at telephone number (203) 461-7292 or via electronic mail at mdowns@walkerdigital.com.

Respectfully submitted,

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